

No. 22-16810

IN THE
United States Court of Appeals for the Ninth Circuit

CITY OF OAKLAND, a Municipal Corporation, and THE PEOPLE OF
THE STATE OF CALIFORNIA, acting by and through the Oakland
City Attorney Barbara J. Parker,

Plaintiffs-Appellees,

v.

B.P. P.L.C., a public limited company of England and Wales; CHEV-
RON CORPORATION, a Delaware corporation; CONOCOPHILLIPS
COMPANY, a Delaware corporation; CONOCOPHILLIPS; EXXON
MOBIL CORPORATION, a New Jersey corporation; SHELL PLC, a
public limited company of England and Wales, F/K/A ROYAL DUTCH
SHELL PLC,

Defendants-Appellants.

On Appeal from the United States District Court,
Northern District of California, Case Nos. 3:17-cv-06011
(The Honorable William H. Alsup)

**APPELLANTS' CONSENT MOTION
TO CONSOLIDATE APPEALS**

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Pursuant to Federal Rules of Appellate Procedure 3(b)(2) and 27 and Circuit Rule 27-1, Appellants move to consolidate two related appeals pending before this Court: *City of Oakland v. BP PLC*, No. 22-16810, and *City and County of San Francisco v. BP PLC*, No. 22-16812. These appeals arise from a single order remanding both cases to California state court. *City of Oakland v. BP P.L.C.*, No. C 17-06011 WHA, 2022 WL 14151421 (N.D. Cal. Oct. 24, 2022). Each appellant is an energy company that timely appealed the district court's remand order. *See* Notice of Appeal, *City of Oakland v. BP P.L.C.*, No. C 17-06011 WHA (N.D. Cal. Nov. 21, 2022), ECF No. 435; Notice of Appeal, *City and County of San Francisco v. BP P.L.C.*, No. C 17-06012 WHA (N.D. Cal. Nov. 21, 2022), ECF No. 358.

Because both appeals arise from the same remand order, consolidating these appeals will serve the interest of judicial economy and will not result in any delay. "When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the court of appeals." Fed R. App. P. 3(b)(2). This rule was adopted to encourage consolidation of appeals whenever possible. *See* 1967 Advisory Committee Notes to FRAP 3. The Court should grant consolidation here.

First, consolidation serves the interest of judicial economy. When the appeals court will have to review the same issues in each appeal, consolidation is warranted in the interest of judicial economy. *See California v. Mesa*, 813 F.2d 960, 961 n. 1 (9th Cir. 1987) (consolidating two separate cases on appeal because “they raise the same legal issues”). Here, both appeals arise from the same district court decision and raise identical issues, namely, whether the district court erred in remanding these suits to state court. Consolidation will streamline briefing and oral argument in these cases, and ensure consistent outcomes in both appeals. Indeed, this Court previously consolidated the appeals arising from an earlier order in these same cases. *See City of Oakland v. BP PLC*, 960 F.3d 570, 575 (9th Cir.), *opinion amended and superseded on denial of reh’g*, 969 F.3d 895 (9th Cir. 2020).

Second, there will be no delay if the appeals are consolidated. Both appeals are progressing under the same timelines. Defendants-Appellants filed materially identical opening briefs in both cases on March 31, 2023. Consolidation will not affect either appeal’s timeline.

The Court should therefore consolidate appeals Nos. 22-16810 and 22-16812. Plaintiffs-Appellees consent to this motion.

DATED: April 5, 2023

Respectfully submitted,

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**** Pursuant to Ninth Circuit L.R. 25-5(e), counsel attests that all other parties on whose behalf the filing is submitted concur in the filing's contents.**

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I certify that:

The motion complies with the word limit of Rule 27(d)(2)(A) of the Federal Rules of Appellate Procedure, as it contains 413 words, excluding the portions exempted by Rule 32(f).

The motion also complies with the typeface requirements of Rule 32(a)(5)(A) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point, New Century Schoolbook font.

Dated: April 5, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Dated: April 5, 2023

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